**From:** Nick Bauman
**To:** Microsoft ATR
**Date:** 1/23/02 3:20pm
**Subject:** Microsoft Settlement

I'm a software developer with 6 years of experience in the field. I have found, in my experience, that the most successful and valueable systems developed in my lifetime are ones that promote implementation choice and integration choice. In short, without choice, there can be no innovation. Microsoft's overall approach toward software development is the antithesis of this, promoting exclusionary and lock-in tactics. If the Department does not change it's current tack with Microsoft regading the anti trust case, it will be sending a message that strangling innovation for the enrichment of the few is a good thing.

In particular, the Proposed Final Judgment allows many exclusionary practices to continue, and does not take any direct measures to reduce the Applications Barrier to Entry faced by new entrants to the market.

The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act ? 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1.

The Proposed Final Judgment as currently written does nothing to prohibit certain kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use these techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software.

I suggest that the DoJ revisit this judgement and provide language and means to compel Microsoft to maintain non-restrictive licensing.

Also, the Proposed Final Judgment doesn't take into account Windows-compatible competing operating systems either. The Proposed Final Judgment should take steps of forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.

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